

**REMARKS**

Reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

A. Status of the Claims and Explanation of Amendments

By this paper, the title is amended. This amendment is believed to resolve the objections of the December 28, 2006 office action at page 2. Applicant notes, however, that the title has been amended to enable the U.S. Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure and to aid indexing, classifying and searching. 37 C.F.R. §1.72(b), MPEP §606.01. This amendment is *not* intended to narrow, limit, alter or otherwise characterize what Applicant regards as the invention. It is, of course, the claims and not the title that defines the invention being claimed.

Claims 1-9 were pending in the current application. Claim 8 is now canceled without prejudice or disclaimer. By this paper, claims 1-4, 6-7, and 9 are amended. Claim 1 is amended to recite, inter alia, “a determination device which determines whether or not to correct the exposure error on the basis of at least one of the setting state of the image sensing apparatus that is obtained by said setting state determination device, an operation state of the image sensing apparatus, and an object brightness state in image sensing; and an exposure error correction device which performs an exposure correction by using the exposure error calculated by said exposure correction calculation device, when it is determined by said determination device to

correct the exposure error.” Claims 2, 4, and 6-7, are similarly amended. Claim 3 is amended to recite, “...when the flash is so set as to emit light, a correction width of a correction amount of the exposure error is changed...” Claim 9 is amended to recite, “a computer-readable recording medium characterized by recording a program which causes a computer to execute the method defined in claim 7.” Support for these amendments is found throughout the specification and drawings, as originally filed, including, for example, in Figures 2, 3, 5, and 6. No new matter is believed to be added by these amendments. Entry is requested.

B. Claims 1-7, and 9 are Patentably Distinct from  
Noriyuki, Kubo, and Numata

Claims 1,4-5 and 7-9 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Noriyuki (Japanese Patent Laid-Open No. 2000-069356) (“Noriyuki”). [12/28/06 Office Action, p. 2]. Claims 2 and 6 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Noriyuki in view of U.S. Pat. No. 7,030,911 to Kubo (“Kubo”). [12/28/06 Office Action, p. 10]. Claim 3 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Noriyuki in view of U.S. Pat. No. 6,654,062 to Numata (“Numata”).

The rejections of claims 1-7 and 9 are respectfully traversed. As explained more fully below, the requirements for such rejection are not met since the cited reference does not disclose a determination device which determines whether or not to correct the exposure error on the basis of at least one of the setting state of the image

sensing apparatus that is obtained by said setting state determination device, an operation state of the image sensing apparatus, and an object brightness state in image sensing; and an exposure error correction device which performs an exposure correction by using the exposure error calculated by said exposure correction calculation device, when it is determined by said determination device to correct the exposure error.

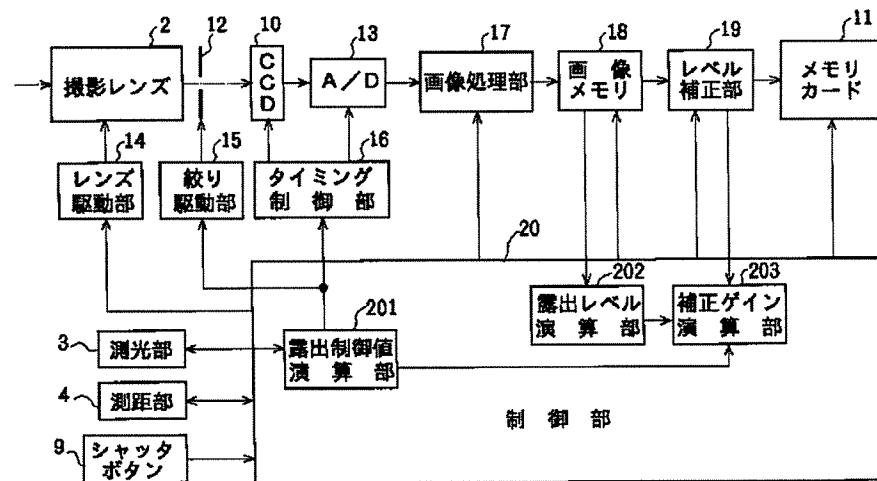
Specifically, Applicants' amended claim 1 recites:

"1. An image sensing apparatus comprising:  
a setting state determination device which determines a setting state of the image sensing apparatus in image sensing;  
an exposure calculation device which performs photometry for image sensing to calculate an exposure level upon an image sensing preparation instruction by an image sensing preparation instruction member;  
an exposure level calculation device which calculates an exposure level of an image signal output after image sensing;  
an exposure correction calculation device which calculates an exposure error from the exposure level calculated by said exposure calculation device and the exposure level of a sensed image that is calculated by said exposure level calculation device;  
a determination device which determines whether or not to correct the exposure error on the basis of at least one of the setting state of the image sensing apparatus that is obtained by said setting state determination device, an operation state of the image sensing apparatus, and an object brightness state in image sensing; and  
an exposure error correction device which performs an exposure correction by using the exposure error calculated by said exposure correction calculation device, when it is determined by said determination device to correct the exposure error."

Noriyuki relates to image pick-up equipment that carries out photo electric conversion of a picture signal. [Noriyuki, 0001]. The office action contends that Noriyuki discloses an image sensing apparatus comprising a setting state determination

device, an exposure calculation device, an exposure level calculation device, an exposure correction calculation device, and an exposure error correction device. [12/26/06 Office Action, p. 3-4].

Noriyuki's Figure 5 (reproduced below) shows a flow chart of a digital camera equipped with the image pick-up equipment concerning Noriyuki's invention.



According to Noriyuki, if the shutter control button 9 is pushed, a control section 20 will drive the photometry section 3 that will incorporate photometry data. [Noriyuki, 0038]. The brightness is then computed in the exposure control valuation operation 201 and an exposure control value is computed based on this brightness. [Noriyuki, 0039]. The correct exposure level will then be computed from the apex value of the brightness, the sensibility, and the exposure control value. [Noriyuki, 0040]. The Office Action contends that Noriyuki's exposure control value corresponds to the exposure error value of Applicant's claim 1. [12/28/06 Office Action, p.3]. Noriyuki reduces the error of exposure level by amending the exposure control value based on the

error characteristics concerned at the time of photography. [Noriyuki, 0005].

Accordingly, Noriyuki alters the exposure control value whenever a picture is taken.

Thus, Noriyuki fails to teach, suggest or disclose an image sensing apparatus that uses “a determination device which determines whether or not to correct the exposure error on the basis of at least one of the setting state of the image sensing apparatus that is obtained by said setting state determination device, an operation state of the image sensing apparatus, and an object brightness state in image sensing; and an exposure error correction device which performs an exposure correction by using the exposure error calculated by said exposure correction calculation device, when it is determined by said determination device to correct the exposure error” as recited in Applicants’ amended claim 1.

The Office Action cited Kubo (in combination with Noriyuki) and Numata (in combination with Noriyuki) as allegedly disclosing subject matter of Applicants’ dependant claims 2 and 6, and 3, respectively. The Office Action does **not** assert that Kubo or Numata alleviate the deficiency in Noriyuki discussed above. Applicants’ own review of Kubo and Numata finds that they fail to teach, disclose, or suggest an image sensing apparatus that uses “a determination device which determines whether or not to correct the exposure error on the basis of at least one of the setting state of the image sensing apparatus that is obtained by said setting state determination device, an operation state of the image sensing apparatus, and an object brightness state in image sensing; and an exposure error correction device which performs an exposure correction by using the

exposure error calculated by said exposure correction calculation device, when it is determined by said determination device to correct the exposure error” as recited in Applicants’ amended claim 1. Therefore, claim 1 is patentably distinct from Noriyuki alone or in combination with Kubo and/or Numata. For at least similar reasons, claims 2-7, and 9 are also patentably distinct.

C. Amended Claim 9 is Directed Toward Statutory Subject Matter

The Office Action rejected Claims 8 and 9 under 35 U.S.C. §101 allegedly because the claims are directed to non-statutory subject matter. [12/28/06 Office Action, p. 2]. By this paper, Applicant has cancelled claim 8 without prejudice or disclaimer, and has amended claim 9 to properly claim statutory subject matter. Applicant respectfully submits that this rejection is now moot, and requests its withdrawal.

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited document is, in fact, prior art. Likewise, Applicants have chosen not to swear behind the Noriyuki reference cited by the office action or to otherwise submit evidence to traverse the rejection at this time. Applicants, however, reserve the right, as provided by 37 C.F.R. §§ 1.131 and 1.132, to do so in the future as appropriate.

Finally, Applicants have not specifically addressed the rejection of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend, are in condition for allowance as set forth above. Accordingly, the

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dependent claims also are in condition for allowance. Applicants, however, reserve the right to address such rejection of the dependent claims in the future as appropriate.

### **CONCLUSION**


For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-5172.

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By:

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